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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

STATE OF NEVADA, } 3:08-CV-505-BES-VPC  
Plaintiff, } ORDER  
v. }  
DAVID MATLEAN, }  
Defendant. }  
\_\_\_\_

Before the Court is defendant David Matlean's ("defendant") Application to Proceed Without Prepayment of Fees and Affidavit (#1) and Notice of Removal (#1-2) filed on September 19, 2008. This action was referred to U.S. Magistrate Judge Cooke pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. The Magistrate Judge submitted her Report and Recommendation (#4) on April 13, 2009. In the Report and Recommendation (#4), the Magistrate Judge concluded that the defendant has not demonstrated grounds for removal, recommending that this Court deny Defendant's Notice of Removal<sup>1</sup>, and that defendant's Application to Proceed Without Prepayment of Fees(#1) be denied as moot and the case be dismissed with prejudice. Defendant filed Objections to Magistrate Judge's Report and Recommendation (#5) on April 17, 2009.

I. ANALYSIS

A. **Review of Magistrate Judge's Order**

Any party may object to a magistrate judge's case dispositive proposed order, findings,

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<sup>1</sup>Defendants Notice of Removal (Document #1-2) attached to Application to Proceed Without Prepayment of Fees and Affidavit(#1) filed with the Court on September 19, 2008.

1 or recommendations. 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b); LR 74.2. The district  
2 court must make a *de novo* determination of those portions of the magistrate judge's report  
3 to which objection is made and may accept, reject, or modify, in whole or in part, the findings  
4 or recommendations made by the magistrate judge. *Id.* *De novo* review means the court must  
5 consider the matter anew, the same as if it had not been heard before and as if no decision  
6 previously had been rendered. *Ness v. Commissioner*, 954 F.2d 1495, 1497 (9th Cir. 1992).  
7 Thus, although the district court need not hold a *de novo* hearing, the court's obligation is to  
8 arrive at its own independent conclusion about those portions of the magistrate judge's  
9 findings or recommendation to which objections are made. *United States v. Remsing*, 874  
10 F.2d 614, 617 (9th Cir. 1989).

11 After conducting a *de novo* review of the record in this case in accordance with 28  
12 U.S.C. § 636(b)(1)(B) and Local Rule IB 1-4, the Court hereby ADOPTS and ACCEPTS the  
13 Report and Recommendation (#4), and good cause appearing,

14 IT IS HEREBY ORDERED that the defendant's Notice of Removal (#1-2) is DENIED  
15 and defendant's Application to Proceed Without Prepayment of fees (#1) is denied as MOOT.

16 IT IS FURTHER ORDERED that this case is DISMISSED with prejudice. The Clerk of  
17 the Court shall enter judgment according.

18 IT IS SO ORDERED.

19 DATED: This 24th day of June, 2009.

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BRIAN SANDOVAL  
UNITED STATES DISTRICT JUDGE